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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/340,771	06/28/1999	DAVID LEWIS MYERS	13944	4334

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NEENAH, WI 54956

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 12/04/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-8

# Office Action Summary

Application N .

09/340,771

Applicant(s)

MYERS, DAVID LEWIS

Examiner

Christopher C. Pratt

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 10/11/01 have been entered and carefully considered. Applicant's amendment is found to overcome the 112 indefinite rejection of claim 11. Applicant's amendment also overcomes the 102 rejection over Rousseau, set forth in the last action. Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Information Disclosure Statement***

2. Applicant has again indicated that the IDS filed 10/1/99 is now present in the case. However, this IDS is still not in the case. Applicant is invited to fax this IDS directly to the examiner for consideration: 703.872.9446.

### ***Election/Restrictions***

3. Claim 12-26 were previously restricted by the examiner. In light of applicant's amendment rendering claims 12-26 dependant from claim 1, claims 12-26 are hereby rejoined to the elected invention.

### ***Claim Objections***

4. Claim 15 is objected to because of the following informalities: Please delete either "comprise" or "include." Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheth (5614574) or (5464687) in view of Rousseau et al (6002017).

Sheth is concerned with the creation of a polyolefin composition, which can be formed into fibers to create nonwoven webs suitable for use as filters (abstract). Said composition comprising polypropylene and a miscible thermoplastic telomer (col. 8, lines 30-35 and col. 11, lines 27-33, respectively). The examiner notes that applicant teaches "POLYBOND" as a preferred telomer (p. 6 of the spec.). Sheth teaches the use of the telomer in applicant's claimed percentages. Sheth does not seem to teach applying an electric charge to the filter web.

Rousseau is concerned with the creation of filter web's having an electric charge (col. 1, lines 9-17). It would have been obvious to a person having ordinary skill in the art to impart an electric charge to the web of Sheth. Such a modification would have been motivated by the desire to improve the aerosol filtration efficiency of Sheth's filter (col. 1, lines 33-36 of Rousseau).

With respect to claims 13-14, and 16, the examiner takes official notice that it is common and well known in the art of nonwoven filters to utilize both spunbond and meltblown fibers. As such it would have been obvious to the skilled artisan to utilize both spunbond and meltblown fibers. The skilled artisan would have been motivated to

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utilize either fiber type by the desire to impart the filter with the properties associated with each.

With respect to claim 15, Sheth teaches multicomponent fibers (col. 7, lines 50-54 and col. 8, lines 30-34, respectively).

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheth (5614574) or (5464687) in view of Rousseau et al (6002017) and either Singer et al (5817584) or Midkiff et al (5709735).

The combination of Sheth and Rousseau does not seem to teach a spunbond/meltblown/spunbond laminate.

Singer and Midkiff are both concerned with the creation of an electret filter material comprising a spunbond/meltblown/spunbond laminate. It would have been obvious to a person having ordinary skill in the art to utilize the web created by the combination of Sheth and Rousseau in a SMS laminate. Such a modification would have been motivated by the desire to create a filter having both a high permeability and a high filtration efficiency.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt  
November 24, 2001



ELAINE COPENHEAVER  
SUPERVISORY PATENT EXAMINER  
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